

**REMARKS/ARGUMENTS**

This is in response to the official action dated October 16, 2007 and Advisory Office action of January 25, 2008.

**Claim rejections under 35 USC § 102**

The Examiner rejected Claims 1- 4 as being anticipated by Nightingale (GB 2,042,340). In order properly reject a claim as being anticipated by a prior art reference, every element of the claim must be found in the reference. To reiterate, the claimed invention calls, *inter alia*, for a fragrance cartridge which includes a reservoir containing a fragrance material. The reservoir has channels to permit ingress of carrier gas into the reservoir and egress of fragrance-containing carrier gas from the reservoir. The channels are defined by capillaries which have internal diameter and length dimensions sufficient to act as closure means to prevent leakage of fragrance from the reservoir into a head space external of the cartridge when carrier gas flow is interrupted.

The Nightingale reference discloses a dispensing device containing vaporizable substances. The device includes a reservoir containing the vaporizable substance and a capillary passage connecting the reservoir with the atmosphere. The capillary passage is designed to control the emission rate for the vaporizable substance by having a cross-sectional area of less than half that of the reservoir. The vaporizable substance may be connected to two capillary passages or zones as shown in Figs. III and IV; however, it is clear that both of these "emission control zones" provide egress for the vaporizable material retained between the emission control zones, item 11 or 17. Nowhere does Nightingale teach or suggest that a capillary passage is connected to carrier gas. Nightingale's goal is to dimension the capillaries and the reservoir such that the vaporizable substance as a liquid is always retained in the reservoir by capillary action. To reconfigure Nightingale's capillaries to fit somehow within Applicants invention would not be possible. That is, to provide a carrier gas simultaneously through one of the capillary zones (using them as ingress) and at the same time allow the vaporizable material to escape through the same capillary as egress simply would not work, the vaporizable material and the carrier gas would collide and possibly brake the device or push the liquid out the other end. In fact, Nightingale teaches away from providing a fragrance flow being dispensed by a carrier gas which

creates a flow of because the references teaches that capillary passages constitute alone an emission rate controlling device. The rate of emission in applicants claimed invention is provided by a carrier gas provided on demand and such carrier gas passed the fragrance material before it exits the egress channel.

Thus, the anticipatory reference of Nightingale should be withdrawn and claims 1-4 should be allowed.

Claim rejections under 35 USC § 103

The Examiner rejected claims 5-9 as being obvious over Chaio et al. (US 20020114744) in view of Nightingale. Chaio discloses a scent-bearing and multimedia card/or disk and an associated scent storage medium for storing at least one scent. It contains digital scent recovery and other information. Additional disclosure describes a scent release systems and methods for releasing scent stored in the scent- and multimedia-bearing card. It is apparent, that Chiao only teaches an electrostatic method of release. For example, [0021], lines 8-9 state that the scent release unit comprises a scent release chamber; an electrostatic scent release apparatus. An electrostatic release is different than a pure gas release. See also Chiao's figures 11, 12 and 15A-C. Applicants point to Fig.12, where the escape of fragrance is regulated by electromagnetically-operated sealing covers.

"[0094] A preferred structure for performing part of this operation is depicted in FIGS. 11-12. The structure depicted in FIG. 11 comprises an array of electrostatic and electromagnetic scent release elements for use in releasing multiple scents. Each scent release opening would have an associated electrostatic site 019 and electromagnet 018. The electrostatic site 019 is where scent ionization occurs. The electromagnet 018 opens and closes a sealing cover that seals the scent release opening between scent release operations. The electromagnet depicted in FIG. 11 is coated with epoxy to protect the electromagnet from the electrostatic scent release apparatus.

[0095] After sufficient scent has entered the absorbent material, then the electromagnet is charged as shown in FIG. 12. Absorbent material is contained in each individual scent release assembly 20. The individual scent release assembly is movable as shown in FIG. 12 by the action of the electromagnet 018. The individual scent release assembly 020 comprises an housing; a magnetic cover 013; absorbent material 014; and corona discharge wiring and needle 008. In alternate embodiments, the individual scent release assembly 020 may be either spring mounted or hingedly mounted. During scent release operations, the scent release assembly 020 is initially in a retracted position shown by the compressed spring and closed positions of the hinged cover in FIG. 12. Scent flows into

the absorbent material 014 from the scent reservoir through capillary tubes (not shown). The corona discharge needle 008 is then charged, ionizing the scent in the absorbent material. Next the electromagnet is energized, causing the individual scent release assembly to move to an open position, where scent can be released to the atmosphere. After completion of the scent release operation, the electromagnet is de-energized, causing the spiral spring 007 or hinge 015 to return the individual scent release assembly 020 to a closed position immediately adjacent to the capillary tube.”

In other words, unlike the present invention, in which the cartridge relies on selected inlet and outlet channels having sufficient dimensions to act as closure means to allow the gas to escape only when a carrier gas is caused to flow through, Chiao has opening and closing doors. There is no teaching of capillary dimensions sufficient to restrain a fragrance until gas flows through. In Chiao there is never a gas contemplated to flow through. One means of fragrance release is clearly shown in the three Figures 15 A, 15 B and 15 C. Here, Chiao discloses corona discharge needles (008), the fragrance were provided and came from the fragrance containers via the connecting capillary tubes and have been absorbed on the absorbent material (014) surrounding the corona discharge needles.

The only airflow embodiments in Chiao are illustrated in Figures 19 and 20 and described at [0100] - [0101]. Note that there are the same ionization needles as in Figures 15, and that these needles cause the ionization and subsequent emission of the fragrance. The fragrance is emitted into the passing airflow and taken out of the apparatus. Nowhere is there a non-electrostatic-assisted through-flow of gas conveying the gas to the atmosphere. Thus, Chiao functions on an entirely different principle and even if combined with Nightingale, the combination does not make obvious the cartridge of the present invention.

The Examiner admits that Chiao is silent with respect to channels within the cartridge to permit ingress of carrier gas into the reservoir, and the Examiner is pointing to Nightingale's disclosure of plurality of capillary channels 20 for controlling emission. In order to properly reject a claim as obvious over a combination of references, it must be obvious to a person of ordinary skill to combine the references as suggested by the Examiner. Combining Chiao's electrostatic method of release and Nightingale's lack of non-flow-through gas (no identification of ingress and egress) would not be considered by the skilled person an obvious combination to arrive at applicants' present invention that calls for carrier gas, ingress and egress and specific capillaries. Both references belong into different areas of solving a specific solution and they do

not address any aspect of Applicants' invention.

Thus, applicants submit that the obviousness rejections of claims 5-9 should be withdrawn and the case should pass to issue.

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
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